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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/691,053	10/19/2000	Zvia Agur	Q60688	5359

7590 08/28/2002

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WASHINGTON, DC 20037-3213

EXAMINER
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MORAN, MARJORIE A

ART UNIT	PAPER NUMBER
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1631

DATE MAILED: 08/28/2002

14

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.	Applicant(s)
09/691,053	AGUR ET AL.
Examiner	Art Unit
Marjorie Moran	1631

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

### A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.
- 4) Claim(s) 1-509 is/are pending in the application.
  - 4a) Of the above claim(s) 66-233 and 332-465 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-65,234-331 and 466-509 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All
  - b) Some \*
  - c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

***Supplemental Restriction***

In the office action mailed 4/8/02, claims 480-493, directed to a method of predicting the progression of cancer in an individual, were improperly listed as belonging to Group VII. Claims 234-247 and 466-479, directed to a system and method of recommending an optimal treatment protocol for cancer, are the claims which should have been included in Group VII. Group VIII should have included claims 248-273 and 480-505. All the other Groups listed in the restriction requirement contain the correct claims.

The examiner regrets the error and apologizes for any delay resulting therefrom. As it appears from the traversal that the improper inclusion of claims 480-493 may have caused confusion for the applicant, the proper claim groupings are set forth below. Applicant is requested to "re-elect", or newly elect, a Group of claims for further examination from those set forth in this office action.

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-49, 274-315, and 506-509, drawn to computer systems, methods, and a computer program product for recommending an optical treatment protocol, classified in class 702, subclass 19.
- II. Claims 50-65 and 316-331, drawn to a computer system and method to predict progression of a biological process in a patient, classified in class 702, subclass 19.
- III. Claims 66-117 and 332-349, drawn to systems and methods for modeling thrombopoietic lineage in an individual, classified in class 703, subclass 11.

- IV. Claims 118-167 and 350-399, drawn to systems and methods for predicting progression of thrombopoiesis and thrombocytopenia, classified in class 702, subclass 19.
- V. Claims 168-201 and 400-433, drawn to systems and methods for modeling neutrophil lineage in an individual, classified in class 703, subclass 11.
- VI. Claims 202-233 and 434-465, drawn to a system and methods for predicting progression of granulopoiesis, classified in class 702, subclass 19.
- VII. Claims 234-247 and 466-479, drawn to a computer system and method for recommending an optimal treatment protocol for cancer using drugs, classified in class 128, subclass 920.
- VIII. Claims 248-273 and 480-505, drawn to computer systems and methods for predicting the progression of cancer in patients, classified in class 128, subclass 920.

The inventions are distinct, each from the other because of the following reasons:

Inventions I-VIII are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions are directed to systems and methods for performing different functions. The methods of each of Group recite different steps, use of different products, and are directed to different results. In addition, the method of each Group may be performed without knowledge of the steps or results of the method of any other Group. As the systems and programming code are those for performing the method(s) of each Group, the systems and code of each Group are also unrelated to those of any other Group for the same reasons as set forth for the methods.

Because these inventions are distinct for the reasons given above and the search required for Groups II-VIII is not required for Group I, the search required for Groups III-VIII is not required for Group II, the search for Groups I-II and VI-VIII is not required for Group III, etc., restriction for examination purposes as indicated is proper.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

All arguments with regard to rejections of record are held in abeyance pending response to this restriction requirement. Arguments with regard to the restriction requirement are similarly held in abeyance pending response to this office action. Applicant is advised that if no new traversal arguments are filed, the previous traversal, filed 6/7/02, will be considered to be the traversal of record for both the original and the supplemental restriction requirement. Any new arguments will supercede the previous traversal.

#### *Oath/Declaration*

The declaration filed 3/8/01 is properly executed and is acceptable.

#### *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marjorie A. Moran whose telephone number is (703) 305-2363. The examiner can normally be reached on Monday to Friday, 7:30 am to 4 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Woodward can be reached on (703) 308-4028. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-4242 for regular communications and (703) 872-9306 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3524.

*Marjorie A. Moran*

Marjorie A. Moran  
Examiner  
Art Unit 1631

August 24, 2002